

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ADJUSTACAM LLC,	§	
	§	
PLAINTIFF,	§	C.A. NO. 6:10-cv-00329-LED
	§	
v.	§	
	§	
AMAZON.COM, INC., <i>et. al.</i> ,	§	JURY TRIAL DEMANDED
	§	
DEFENDANTS.	§	
	§	

**DEFENDANT KMART CORPORATION'S NOTICE OF JOINDER IN DEFENDANT
DELL INC.'S CORRECTED MOTION TO DISMISS PLAINTIFF'S ALLEGATIONS OF
INDIRECT INFRINGEMENT AND WILLFUL INFRINGEMENT FOR FAILURE TO
STATE A CLAIM**

Defendant Kmart Corporation (“Kmart”) hereby joins Defendant Dell Inc.’s Corrected Motion to Dismiss Plaintiff’s Allegations of Indirect Infringement and Willful Infringement for Failure to State a Claim (Docket No. 164) and the associated Notice of Additional Authority Regarding Defendant Dell’s Corrected Motion to Dismiss (Docket No. 180), pursuant to Fed. R. Civ. P. 12(b)(6), and the arguments and authorities found therein.¹

AdjustaCam LLC’s (“AdjustaCam”) allegations of indirect infringement against Kmart are substantively the same as those it has asserted against Dell, Inc. (“Dell”), and are deficient for the same reasons set forth in Dell’s Motion to Dismiss. *Compare* First Amended Complaint for Patent Infringement (Docket No. 111), ¶ 132 (Kmart) *with* ¶ 92 (Dell); *see also id.* at ¶ 224 (Kmart & Dell). Because AdjustaCam has not adequately pled the required facts to support an

¹ Kmart is concurrently filing its First Amended Answer to AdjustaCam LLC's First Amended Complaint for Patent Infringement.

allegation that Kmart indirectly or willfully infringed the patent-in-suit, its indirect infringement and willful infringement claims against Kmart should be dismissed.

Dated: October 5, 2010

Respectfully submitted,

By: /s/ John H. Barr, Jr.

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Attorney-in-Charge

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record pursuant to the Federal Rules of Civil Procedure on the 5th day of October, 2010.

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/s/ John H. Barr, Jr.

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